Case 11-31169-VFP Doc 56 Filed 09/27/18 Entered 09/27/18 15:32:27, Desc Main Document Page 1 of 14

MARSHALL DENNEHEY WARNER COLEMAN & GOGGIN, S. BANKRUPTCY COURT

Howard J. Smith, Esq. (270322018)

Wall Street Plaza

88 Pine Street, 21st Floor

New York, NY 10005

(212) 376-6400

Attorneys for Creditor,

2018 SEP 27 A 11: 11

NEWARK, NJ

JEARNE A. HADOITTON

y. Marjar

UNITED STATES BANKRUPTCY COURT DISTRICT OF NEW JERSEY - - - NEWARK

In re:

Case No.: 11-31169-VFP

Gerome S. Jordan

CHAPTER 13

Debtor

Hon. Vincent F. Papalia

U.S.B.J.

AFFIDAVIT IN OPPOSITION TO MOTION TO RE-OPEN CHAPTER 13 CASE

I, Annmarie Rutigliani, being of full age, certify under penalty of perjury that:

- 1. I am the Manager Client Liaison of SUEZ Water Environmental Services Inc. ("Suez") and submit this affidavit in opposition to the Motion of Gerome S. Jordan ("Jordan" or the "Debtor") to reopen his Chapter 13 case to enable the Debtor to file an adversary proceeding. I submit this affidavit based on my own personal knowledge and my review of Suez's billing and account records for the Debtor.
- 2. Suez operates, maintains, administers and manages the watershed, reservoirs, pumping stations, transmission lines, water treatment plant, aqueduct, and distribution system owned by the City of Jersey City and operated by the Jersey City Municipal Utility Authority ("MUA"), pursuant to that certain Operations Services Agreement (the "Agreement") by and between Suez and the MUA dated February 1, 2008. Meter reading, billing, collections and customer service are included in the services that Suez performs for the MUA pursuant to the Agreement.

- 3. Suez opposes the Debtor's motion to reopen his Chapter 13 case because it is premised on the Debtor's incorrect belief that Suez and/or MUA are seeking to collect pre-petition sums that were subject to his Chapter 13 case. This is not true. Suez and MUA agree that the pre-petition claim against Mr. Jordan was fully satisfied and discharged by his bankruptcy. The only amounts being sought from the Debtor are for water charges he incurred after his bankruptcy. As set forth herein, the confusion here surrounding a \$489.25 line item on an invoice that the Debtor has challenged stems from a programming issue in which when a bankruptcy case is closed in the billing system, the original balance from the bankruptcy service agreement shows on the billing as a transfer balance. Specifically, the billing system separates the pre and post-petition balance. This issue resulted in two erroneous items being included on one of the Debtor's invoices. While those items should not have been included on the invoice in question, the total amount due and sought from the Debtor on that invoice was accurate and, as is most relevant to the Debtor's motion here, compromised solely of new post-petition water charges.
- 4. While I understand that the Debtor's counsel has requested copies of all invoices since the inception of the Debtor's account, the billing system only maintains copies dating back one year from the date of request.
- 5. I have reviewed Suez's billing software records, however, and have confirmed that the Trustee's payments to Jersey City MUA totaling \$475.83 in connection with the Debtor's bankruptcy have been applied to Jersey City MUA's bankruptcy claim
- 6. Attached as Exhibit A is a true and accurate copy of a spreadsheet maintained by Suez showing the complete billing and payment history for the Debtor's account.
- 7. Attached as Exhibit B is a true and accurate copy of a usage report maintained by Suez which shows the Debtor's water usage. Based on a comparison of his billing history with the Debtor's

usage report, it is evident that the amounts the Debtor was billed correspond to the amount of water used by the Debtor for each quarter.

- 8. As of December 2016, after the Debtor's bankruptcy case concluded, the Debtor had a \$0 balance on his post-petition water account.
- 9. Subsequently, the Debtor incurred new charges, described as "Bill Segments" on Exhibit A, of \$281.87 on December 19, 2016, \$282.67 on March 20, 2017, and \$330.77 on June 19, 2017.
- 10. Those entries total a principal amount of \$895.31. When combined with interest and late penalties as show in Exhibit A, Mr. Jordan's balance due was \$910.88 prior to him being presented with the invoice he challenges in September 2017 (the "\$910.88 Post-Petition Balance").
- 11. The Debtor then accrued additional charges for his water use that were invoiced to him on September 20, 2017. The amount of those charges reflect his higher than average usage for that period as shown on the usage report as Exhibit B.
- 12. A true and accurate copy of the September 20, 2017 invoice is attached as Exhibit C. Specifically, Exhibit C reflects new "Water charges," "Water facilities Chg," and "Sewer Charges." These items total \$459.71 as follows: \$186.30+\$19.61+\$253.35=\$459.71.
- 13. When these new water charges of \$459.71 are added to the \$910.88 Post-Petition Balance that the Debtor owed on his unpaid invoices of December 19, 2016, March 20, 2017, and June 19, 2017, his total amount due as of September 20, 2007 was \$1,370.59. Thus, the "TOTAL AMOUNT DUE \$1,370.59" reflected on the September, 20 2017 invoice was correct and, most importantly, that amount was comprised solely of the Debtor's post-petition charges incurred since his \$0 balance in December 2016.
- 14. The confusion here, and no doubt why the Debtor questioned the September 20, 2017 invoice stems from the fact that that, while the total amount due shown as \$1,370.59 was correct, the

invoice mistakenly included two other items. The first item was a "transfer balance" of \$489.25. This item should not have been a line item on the invoice. The second was an entry marked "Balance Forward – Past Due" of \$409.45. This number was also not correct because, at that time, Mr. Jordan's past due was actually the \$910.88 Post-Petition Balance.

- 15. As described more fully below, the transfer balance showed up because there was a programming issue in which when the bankruptcy case is closed in the billing system, the original protected balance from the bankruptcy service agreement shows on the billing as a transfer balance. These transfer balances affected how the past due balance was shown on the September 2017 bill but the total balance due was correct.
- 16. The Debtor made only one payment in 2017. Because he objected to the \$489.25 transfer balance entry on his September 20, 2017 invoice, he withheld that amount and made a payment of \$881.34. This amount, however, was less than the \$910.88 Post-Petition Balance the Debtor already owed on his December 2016, March 2017, and June 2017 invoices *i.e.*, before he was invoiced on September 20, 2017. Applying his payment of only \$881.34 to the \$910.88 Post-Petition Balance results in a shortfall owed of \$29.54. Adding that amount to the \$459.71 in new charges for which the Debtor was invoiced on September 20, 2017 and the total is \$489.25: the exact amount the Debtor withheld.
- 17. In sum, the Debtor had a \$0 balance as of December 2016 and incurred the \$910.88 Post-Petition Balance during the period covered by the subsequent three invoices. He then was correctly invoiced for \$459.71 in new charges on September 20, 2017. His only payment in 2017 of \$881.34 was \$29.54 less than \$910.88 Post-Petition Balance that was due before the September 2017 invoice. Thus, the Debtor still owed the \$29.54 he never paid on the \$910.88 Post-Petition Balance and all the new charges of \$459.71 that were set forth on the September 2017 invoice.

- 18. For ease of reference, attached as Exhibit D is a marked up version of the September 20, 2017 invoice highlighting the items described above.
- 19. While Suez understands the Debtor's confusion and regrets that the September 20, 2017 invoice contained mistaken line items, the total amounts sought from the Debtor were correct and all the amounts sought are for post-petition water services. While the Debtor's initial confusion was understandable due to the mistaken line items discussed above, his continued objection to paying is a refusal to pay for post-petition charges he legitimately incurred. Moreover, the Debtor's confusion does not warrant the re-opening of his bankruptcy matter.
- As part of its commitment to customer service, Suez has put a bankruptcy process in place to ensure that similar software issues do not arise in the future. Further, Suez is implementing an additional layer of review by introducing an alert through the billing system for every bankruptcy account so that when payments are received they are properly reviewed for processing.

Annmarie Kutigliani

SWORN to before me on this 26 day of September, 2018

NANCY ENGELMANN A Notary Public of New Jersey My Commission Expires May 11, 2022

A	Arrears Date	Financial Transaction Type	Current Amount
-	18-2018	Bill Segment	\$350.04
•06-	02-2018	Jersey City-Water Late Penalty Charge	\$4.64
*0 5-	07-2018	Pay Segment	-\$500.00
1 05-	03-2018	Jersey City-Sewer Late Penalty Charge	\$2.28
- 05-	03-2018	Jersey City-Water Late Penalty Charge	\$9.37
- 03-	19-2018	Bill Segment	\$291.06
+03 -	19-2018	Jersey City-Water Late Penalty Charge	\$7.29
-0 2-	17-2018	Jersey City-Water Late Penalty Charge	\$7.29
+0 2-	16-2018	Pay Segment	-\$230.00
-01-	18-2018	Jersey City-Sewer Late Penalty Charge	\$1.61
40 1-	18-2018	Jersey City-Water Late Penalty Charge	\$8.91
*1 2-	22-2017	Jersey City-Water Late Penalty Charge	\$7.34
→1 2-	18-2017	Bill Segment	\$211.92
*1 1-	22-2017	Jersey City-Water Late Penalty Charge	\$7.34
1 0-	23-2017	Jersey City-Water Late Penalty Charge	\$7.34
10-	20-2017	Pay Segment	-\$881.34
<u>=0</u> 9-	20-2017	Bill Segment	\$459.71
1 09-	20-2017	Jersey City-Transfer Balance	\$1,467.75
**0 9-	11-2017	Jersey City-Transfer Balance	-\$1,467.75
<u> 3</u> 08-	19-2017	Jersey City-Sewer Late Penalty Charge	\$2.71
538 -	19-2017	Jersey City-Water Late Penalty Charge	\$3.38
**3 7-	20-2017	Jersey City-Sewer Late Penalty Charge	\$2.71
117 -2	20-2017	Jersey City-Water Late Penalty Charge	\$3.38
10 6-	19-2017	Bill Segment	\$330.77
* 06-	L9-2017	Jersey City-Water Late Penalty Charge	\$1.13
205-	20-2017	Jersey City-Water Late Penalty Charge	\$1.13
~ 04-	20-2017	Jersey City-Water Late Penalty Charge	\$1.13
- 03-	20-2017	Bill Segment	\$282.67
	20-2017	Jersey City-Transfer Balance	\$0.00
**1 2-	19-2016	Bill Segment	\$281.87
*£2-:	19-2016	Jersey City-Transfer Balance	\$0.00
	02-2016	Pay Segment	-\$1,081.23
	20-2016	Jersey City-Sewer Late Penalty Charge	\$4.48
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2000	21-2016	Jersey City-Sewer Late Penalty Charge	\$4.48
2	21-2016	Jersey City-Water Late Penalty Charge	\$3.83
district	20-2016	Bill Segment	\$262.91
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	20-2016	Bill Segment	\$291.05
	5-2016	Pay Segment	-\$565.20
204-2	2-2016	Jersey City-Sewer Late Penalty Charge	\$2.20

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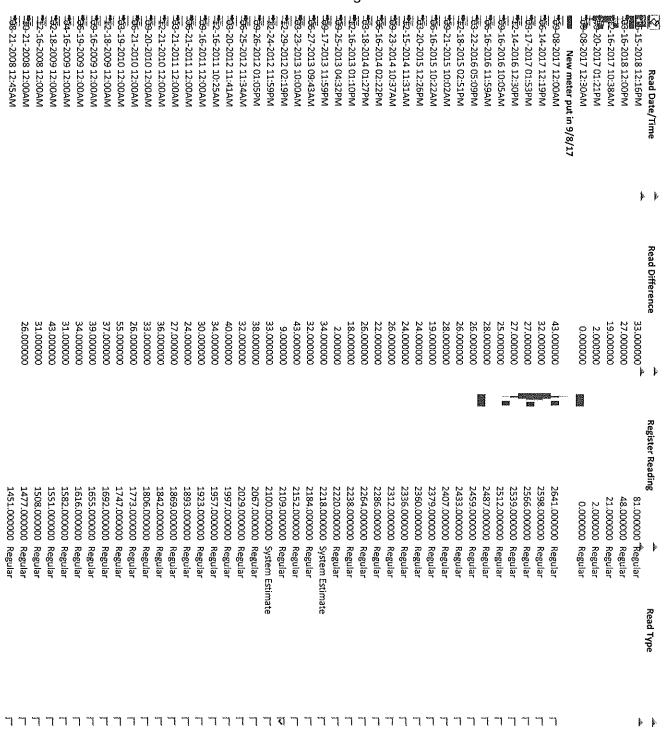
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704-22-2016	Jersey City-Water Late Penalty Charge	\$6.09
193-22-2016	Bill Segment	\$273.29
1 03-21-2016	Jersey City-Water Late Penalty Charge	\$4.19
* 1 32-20-2016	Jersey City-Water Late Penalty Charge	\$4.19
*91-21-2016	Jersey City-Water Late Penalty Charge	\$4.19
*01-21-2016	Pay Segment	-\$520.73
*£2-21-2015	Bill Segment	\$271.89
★ 12-21-2015	Jersey City-Sewer Late Penalty Charge	\$3.98
*£2-21-2015	Jersey City-Water Late Penalty Charge	\$3,47
*£1-21-2015	Jersey City-Sewer Late Penalty Charge	\$3.98
*£1-21-2015	Jersey City-Water Late Penalty Charge	\$3.47
№ F0-22-2015	Jersey City-Sewer Late Penalty Charge	\$3.98
*10-22-2015	Jersey City-Water Late Penalty Charge	\$3.47
*09-21-2015	Bill Segment	\$293.25
* 09-19-2015	Jersey City-Sewer Late Penalty Charge	\$1.61
*109-19-2015	Jersey City-Water Late Penalty Charge	\$1.44
10 8-20-2015	Jersey City-Sewer Late Penalty Charge	\$1.61
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*07-21-2015	Jersey City-Sewer Late Penalty Charge	\$1.61
107-21-2015	Jersey City-Water Late Penalty Charge	\$1.44
*10 6-18-2015	Bill Segment	\$203.43
105-21-2015	Pay Segment	-\$959.65
193-23-2015	Bill Segment	\$252.36
*12-17-2014	Bill Segment	\$243.17
*1 0-16-2014	Bill Segment	\$500.98
*10-16-2014	Bill Segment Cancellation	-\$235.73
20 6-18-2014	Bill Segment	\$225.69
106-18-2014	Jersey City-Transfer Balance	\$0.00
* 03-19-2014	Bill Segment	\$262,42
193-19-2014	Jersey City-Transfer Balance	\$0.00
<u>*</u> £2-18-2013	Jersey City-Transfer Balance	\$0.00
12-18-2013	Bill Segment	\$200.01
<u>*</u> 12-09-2013	Pay Segment	-\$3,050.24
109-27-2013	Bill Segment	\$325.81
206-28-2013	Bill Segment	\$310.41
1 03-25-2013	Bill Segment	\$489.65
*1 2-31-2012	Bill Segment	\$307.22
2 12-18-2012	Pay Segment	-\$61,37
**F0-12-2012	Pay Segment	-\$90.63
1 09-26-2012	Bill Segment	\$351.87
*13 9-12-2012	Pay Segment	-\$97.55
208-06-2012	Pay Segment	-\$76,09
207-24-2012	Pay Segment	-\$76,10
106-25-2012	Bill Segment	\$300.05
13 6-11-2012	Pay Segment	-\$74.09
33-22-2012	Bill Segment	\$367,85

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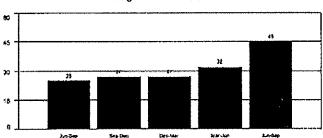
№12-29-2011	Bill Segment	\$305.85
1 2-29-2011	Jersey City-Transfer Balance	\$489,25
* F0-10-2011	Jersey City-Transfer Balance	-\$489.25
№1 0-08-2011	TIDY BALANCE - Change Current Balance	-\$352.44
₹1 0-08-2011	TIDY BALANCE - Change Payoff Balance	\$0.00
₹ 10-07-2011	TIDY BALANCE - Change Current Balance	\$291.53
209-27-2011	Jersey City-Sewer Late Penalty Charge	\$3.13
1 09-27-2011	Jersey City-Water Late Penalty Charge	\$3.58
109-27-2011	Bill Segment	\$271.40

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Jersey City MUA Customer Service Center 69 DeVoe Place Hackensack, NJ 07601 Telephone: 800-575-4433

USAGE HISTORY Usage in Hundreds of Cubic Feet



Next meter reading date: on or about 12/18/2017

09/20/17 30307004540000		
\$409.45		
\$0.00		
\$409.45		
\$961.14		
\$1,370.59		

Past Due Balance may be subject to late charges, collection and/or termination.

SERVICE TO: GEROME JORDAN

SERVICE ADDRESS: 288 RANDOLPH AVE JERSEY CITY NJ

Meter Number	Ser	vice	Days of Service	Meter Reading		Unit of			
	From	То		Previous	Present	Usage	Measure	Reading Type	
56979411	06/14/17	09/08/17	86	2598	2641	43	CCF	PRORATED ACTUAL	
82638111	09/08/17	09/20/17	12	0000	0002	2 EQUIVA	CCF LENT TO	METER CHANGE 33,660 GALLONS	
WATER CHARGES WATER FACILITIE	-			\$186.30 \$19.61		R LATE PENA R LATE PENA		****	\$6.76 \$5.42
SEWER CHARGES				\$253.80 \$489.25) TOTA	L CURRENT	CHARGE	5	\$961.14

SEE REVERSE SIDE FOR IMPORTANT ACCOUNT INFORMATION

IMPORTANT MESSAGES

Your annual water quality report is now available at www.mysuezwater.com/JerseyCityCCR2016. This report contains important information about the source and quality of your drinking water. Please call 800-575-4433 to speak to someone about the report or request a paper copy.

Su informe anual sobre la calidad del agua ya está disponible en <u>www.mysuezwater.com/JerseyCityCCR2016</u>. Este informe contiene información importante sobre el origen y la calidad de su agua potable. Por favor liame al 800-575-4433 para habiar con alguien sobre el informe o solicitar una copia en papel.

Your consumption is based on an actual reading of your water meter.

Please be advised that any unpaid water/sewer charges that are considered delinquent as of November 11,2017 will be subject to Tax Sale on December 18,2017. To avoid going into Tax Sale, please keep your account current.

S/W ANNA 10/20/17 DISCHARGE 2016

A ANN MARIE JERSEY CITY OFFICE C/B MON 10/23 DISCHARGE 2016



Jersey City Municipal Utility Authority Customer Service Center 69 DeVoe Place Hackensack, NJ 07601

Temp - Return Service Requested

SERVICE ADDRESS: 288 RANDOLPH AVE JERSEY CITY NJ

Please check this box if you have made any changes to the information on the reverse side.

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BILLO 324 T: **GEROME JORDAN** 44 W 55TH ST **BAYONNE NJ 07002-4111**

Account Number: 30307004540000 Balance Forward - PAST DUE \$409.45 Current Charges Due 10/20/2017 \$961.14 TOTAL AMOUNT DUE \$1,370.59 Please make payable to: JERSEY CITY MUA Payment Amount Enclosed \$

- Իրի հանակի անգալի ին գրագույնին ինի ինի ինի հերի հանակի վերի ի

JERSEY CITY MUA PO BOX 57008 **NEWARK NJ 07101-5708**

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Jersey City MUA Customer Service Center 69 DeVoe Place Hackensack, NJ 07601 Telephone: 800-575-4433 www.mysuezwater.com

The \$910.88 Post-Petition Balance + \$459.71 in **USAGE HISTORY** w charges = \$1,370.59 Usage in Hundreds of Cubic Feet 45 30

Billing Date: 09/20/17 2016, March 2017 and June 2017 Invoices should be on these line items. The \$910.88 Post-Petition Account Number Previous Balance \$409.45 Payments Through 09/20/17 \$0.00 Balance Forward - PAST DUE \$409.45 Current Charges Due 10/20/2017 \$961.14

TOTAL AMOUNT DUE

SERVICE ADDRESS: 288 RANDOLPH AVE JERSEY CITY NJ

\$1,370.59

Next meter reading date: on or about 12/18/2017

Na .tm

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SERVICE TO: GEROME JORDAN

Past Due Balance may be subject to late charges, collection and/or termination. This number should be the This number should be the \$459.71 in new charges below or Water Charges, Water Facilities CHG and Sewer

Meter Number	Service		Days of	Meter Reading		Unit of			
	From	То	Service	Previous	Present	Usage	Measure	Reading Type	
56979411	06/14/17	09/08/17	86	2598	2641	43	CCF	PRORATED ACTUAL	
82638111	09/08/17	09/20/17	12	0000	0002	2	GEF	METER CHANGE	
						EQUIVA	LENT TO 33	1,660 GALLONS	
WATER CHARGES	•			\$186.30	WATE	R LATE PENA	LTY CHARGE		\$6.76
WATER FACILITIES	S CHG			\$19.61	SEWE	R LATE PENA	LTY CHARGE		\$5.42
SEWER CHARGES	3			\$253.80	TOTA	L CURRENT	CHARGES		\$961.14
TRANSFER BALAN	ICE			\$489.25)				

SEE REVERSE SIDE FOR IMPORTANT ACCOUNT INFORMATION

IMPORTANT MESSAGES

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Your consumption is based on an actual reading of your water meter.

Please be advised that any unpaid water/sewer charges that are considered delinquent as of November 11,2017 will be subject to Tax Sale on December 18,2017. To avoid going into Tax Sale, please keep your account current.

DISCHARGE 2016 5/W ANNA 10/20/17 M ANN MARIE JERSEY CITY OFFICE C/B MON 10/23

6 6 9 6 HE 6512/4 PLEASE DETACH HERE AND RETURN THE BOTTOM PORTION WITH YOUR PAYMENT IN THE RETURN ENVELOPE PROVIDED.



Jersey City Municipal Utility Authority Customer Service Center 69 DeVoe Place Hackensack, NJ 07601

Temp - Return Service Requested

SERVICE ADDRESS: 288 RANDOLPH AVE **JERSEY CITY NJ**

Please check this box if you have made any changes to the information on the reverse side.

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BILLQ 324 T: GEROME JORDAN 44 W 55TH ST BAYONNE NJ 07002-4111 Account Number: 30307004540000 Balance Forward - PAST DUE \$409.45 Current Charges Due 10/20/2017 \$961.14 **TOTAL AMOUNT DUE** \$1,370.59 Please make payable to: JERSEY CITY MUA Payment Amount Enclosed \$

հանրդուկիչերը իրկարգույնների հանդակաների և

JERSEY CITY MUA PO BOX 57008 **NEWARK NJ 07101-5708**

\$881,34 pl 10/20/17

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